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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,866	03/23/2007	Fiorenzo Draghetti	99759.00017	3831
72535	7590	09/24/2010		
MCCARTER & ENGLISH, LLP STAMFORD			EXAMINER	
CANTERBURY GREEN			LANDRUM, EDWARD F	
201 BROAD STREET, 9TH FLOOR				
STAMFORD, CT 06901			ART UNIT	PAPER NUMBER
			3724	
			MAIL DATE	DELIVERY MODE
			09/24/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,866	<b>Applicant(s)</b> DRAGHETTI ET AL.
	<b>Examiner</b> EDWARD F. LANDRUM	<b>Art Unit</b> 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 13 August 2010.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) 5-13 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3 is/are rejected.  
 7) Claim(s) 4 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 May 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement (PTO/US/06)  
 Paper No(s)/Mail Date 8/13/2010

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date: \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because in based on newly added Figure 6, and applicant's disclosure the reference lines for sleeves 5 in Figure 1 are pointing at cigarette portions 2 instead of the sleeves of the counter cutting device 4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: Claim 1 states that the cutting head rotates about a first axis 20, and that the first axis 20 extends through

the counter cutting device (4). As seen in Figure 4, the counter cutting device 4 reciprocates laterally. If the first axis extends through the counter cutting device how does the cutting head rotate about an axis that moves? For examination purposes examiner is assuming the examiner is assuming a plane containing the first axis extends through the counter cutting device, as based on the construction of the cutting head and support body the cutting head is only capable of pivoting around a fixed axis. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The term "independent" in line 13 is considered new matter. Based on the specification as originally filed the motorized actuating means is not independent of the motorized locking means. The controller (58) does not operate the actuating means until the locking means has been activated and therefore the actuating means appears to be dependent of the locking means. Besides the controller (58) the structure of the actuating means is not used by the locking means but applicant has not defined the scope of the term "independent" in regards the structure or

function of the actuating means and locking means. One could therefore be led to believe that either the actuating means or the locking means could be used without the other, but based on the function of the controller this is not the case.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seragnoli (U.S Patent No. 4,398,438) in view of Terpstra et al (U.S Patent No. 4,882,962), hereinafter Terpstra, and Jourdan (U.S Patent No. 6,601,494), in further view of Pollock et al (U.S Patent No. 7,191,690), hereinafter Pollock.

Seragnoli teaches (Figures 1 and 2) a cutting unit for cutting continuous cigarette rods (3 and 4) comprising a supporting body (2), a cutting head (19, 20, and 29) fitted to the supporting body rotate about a first axis (17), a counter cutting device (50) engaged by the cigarette rods and through which the first axis (17) extends, a locking means (23) for locking the cutting head in position on the supporting body (Col. 3, lines 37-42). The cutting head comprises a cutting drum (29) which rotates about a second axis forming an angle with a traveling direction of the feeding of the cigarette rods. The drum has at least one radial blade (13).

Seragnoli teaches all of the elements of the current invention as stated above except the locking means being motorized and comprising an automatic release means

provided with an actuator for releasing the cutting head with respect to the body, a motorized actuating means separated from and independent the locking means and interposed between the support body and the cutting head to rotate the cutting head about the first axis, and a sensor means for determining the angle.

Terpstra teaches (Col. 6, lines 40-68; Col. 7, lines 1-68; Col. 8, lines 1-15) it is known to use a hand operated actuating means (25) to angularly adjust a cutting head (23) with respect to a work piece, and use a separate locking means provided with an actuator (27) to lock the cutting head (23) in place once the desired angular orientation has been achieved.

Jourdan teaches (Col. 3, lines 1-23, 36-48; Col. 4, lines 1-67; Col. 5, lines 1-7) it is known to provide a motorized locking means (48 and 30) for angularly locking a cutting head (14). The motorized locking means includes an automatic releasing means (48) provided with an actuator (a brake will inherently have an actuator that causes the brake to apply or relieve pressure from the clamping plate 30) for releasing the cutting head with respect to a supporting body (generally 12). Jourdan further teaches the use of a motorized actuating means (32) separate and independent (a controller activates the motorized locking means at a different time than the actuating means) of the motorized locking means and interposed between the supporting body and the cutting head to rotate the cutting head (14) about a first axis to vary the angle of the cutting head. Furthermore, Jourdan teaches the use of a sensor means (56) for determining the angle of the cutting head. The purpose of using motorized actuating and locking means being to allow for rapid and accurately move the cutting head from one position to

another (Col. 2, lines 8-12), and to hold the cutting head in place once a specific angle has been achieved (Col. 3, lines 13-16).

Based on Jourdan and Terpstra, it is known to update locking and actuating means of a device by replacing manual locking and actuation of a cutting head with motorized means and replace manual execution of the locking means with automatic locking means. Because Seragnoli, Terpstra, and Jourdan teach means of moving and locking a pivotable rotating cutter, it would have been obvious to substitute an automatic motorized locking means and an independent motorized actuating means for the screw type locking system and manual movement of Seragnoli to achieve the predictable result of allowing for rapid and accurate movement of the cutting head with respect to the supporting body and then clamp the cutting head in place once movement is completed.

Pollock teaches (Col. 2, lines 1-29; Col. 3, lines 17-67; Col. 4, lines 7-36) it is known to provide a motorized actuating means (12) between a support (9) and a cutting head (10) to pivot the cutting head (10) about an axis to vary an angle (alpha) between a cutter (2) and a traveling direction (7) in order to change the length of a cut article cut from a continuous work piece. A sensor means (8), potentially optical, monitors the cutting operation and allows for the changing of the cutting angle. Since the cutting angle can be changed based on the sensor's readings the sensor monitors the angle.

It would have been obvious to have modified Seragnoli to incorporate the teachings of Pollock to provide a motorized system and sensing means to monitor and adjust the angle of the cutting head with respect to the traveling direction of the cigarette

rods. Doing so would have eliminated errors associated with a user manually setting an angle by hand.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Seragnoli in view of Miller et al (U.S Patent No. 4,220,077), hereinafter Miller.

The modified device of Seragnoli teaches all of the elements of the current invention as stated above except the sensor comprises a scale located on the cutting head and using the optical reader for determining the angle on the scale.

Miller teaches (Col. 4, lines 5-37) teaches it is old and well known to provide a scale (encoder 48) on a moving part of a cutting device and using the optical sensor (32 and 33) in conjunction with the scale to determine the position of the moving part.

It would have been obvious to have modified the modified device of Seragnoli to incorporate the teachings of Miller to place a scale on the cutting head in order to determine the angle of the cutting head with respect to the feed direction of the cigarette rods as doing so is a known way to use an optical sensor and would have produced the predictable result of accurately determining the angle of the cutting head.

#### ***Allowable Subject Matter***

8. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: No teaching can be found to provide the scale on a curved lateral surface of a

cutting head with the curved lateral surface being part of a circle with an axis coaxial with the first axis.

***Response to Arguments***

9. Applicant's arguments filed 8/13/2010 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Romo et al (U.S Publication No. 2004/0154448), Ceroll et al (U.S Patent No. 6,820,524), Neff (U.S Patent No. 3,552,251), Ronai (U.S Patent No. 3,630,126), and Svetlik et al (U.S Publication No. 2004/0074362) teach elements of the current invention.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWARD F. LANDRUM whose telephone number is (571)272-5567. The examiner can normally be reached on 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/EDWARD F LANDRUM/  
Examiner, Art Unit 3724  
9/21/2010